

# PLANNING & ZONING BOARD

## CITY OF DELRAY BEACH

---STAFF REPORT---

**MEETING DATE:** July 17, 2017  
**ITEM:** **Swinton Commons - Alley Abandonment, Block 69 (2016-081)** - Abandonment of the east/west portion of the alley within Block 69, Subdivision of Block 69 Plat in association with the proposed Swinton Commons development.

**RECOMMENDATION:** Recommend approval to the City Commission.

### GENERAL DATA:

**Applicant.....** MGM Sundy House, LLC

**Agent.....** Bonnie Miskel, Esq. – Dunay, Miskel and Backman LLP

**Location.....** Block 69, bounded by East Atlantic Avenue to the north, SE 1<sup>st</sup> Avenue to the east, SE 1<sup>st</sup> Street to the south, and South Swinton Avenue to the west.

**Property Size.....** 2,234.16 square feet (area of alley to be abandoned)

**Current FLUM .....** Other Mixed Use (OMU)

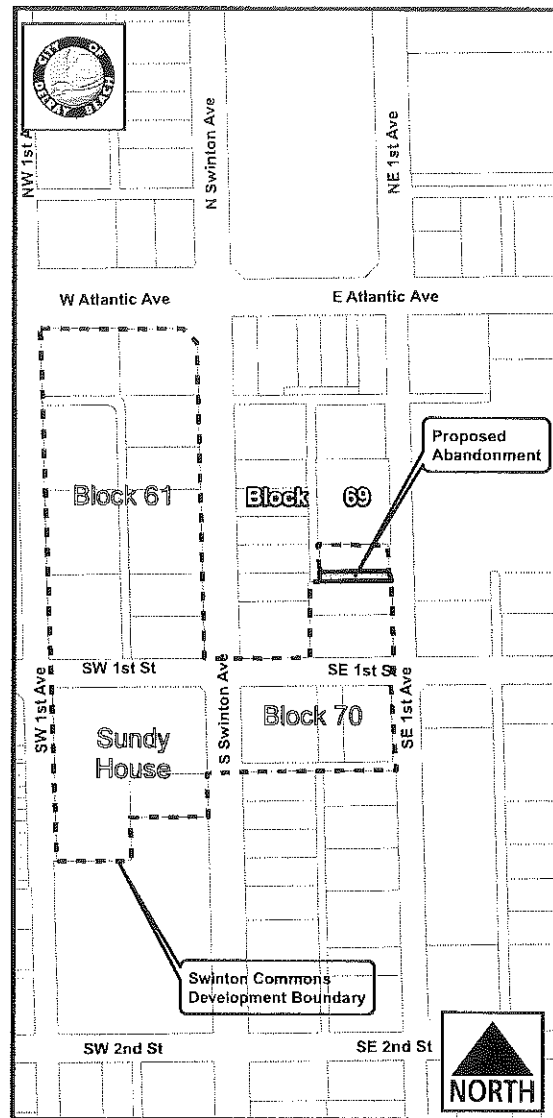
**Current Zoning.....** Old School Square Historic Arts District (OSSHAD) & Old School Square Historic District Overlay

**Adjacent Zoning:**  
 North: OSSHAD with Central Business District (CBD) Overlay & Old School Square Historic District Overlay  
 East: CBD  
 South: OSSHAD with CBD Overlay  
 West: OSSHAD & Community Facilities (CF)

**Current Land Use.....** Improved right-of-way.

**Proposed Land Use.....** Aggregation into adjacent lots to be used for a new hotel.

**Sewer Service.....** Existing 8" main to be removed and relocated within the new alley extension to SE 1<sup>st</sup> Street.



Location Map

## ITEM BEFORE THE BOARD

The item before the Board is that of making a recommendation to the City Commission on the proposed abandonment of the east/west portion of the alley right-of-way located within **Block 69** and north of the northwest corner of SE 1<sup>st</sup> Avenue and SE 1<sup>st</sup> Street, associated with the proposed **Swinton Commons** development, pursuant to LDR Section 2.4.6(M), Abandonment of Rights-of-Way.

## BACKGROUND

Block 69 is located south of East Atlantic Avenue, between South Swinton Avenue and SE 1<sup>st</sup> Avenue, and is zoned Old School Square Historic Arts District (OSSHAD). The alley right-of-way was dedicated by the "Subdivision of Block 69", which was recorded in Plat Book 2, Page 43. The area to be abandoned is 18 feet wide by approximately 124.12 feet long and consists of the east/west alley located to the south of Lot 19.

The abandonment is to accommodate the new construction of a hotel associated with the proposed Swinton Commons development. With the plat of the entire multi-block project area, the existing north/south alley will be extended to SE 1<sup>st</sup> Street.

## ABANDONMENT ANALYSIS

Pursuant to **LDR Section 2.4.6(M)(1)**, a public right-of-way may be abandoned (returned) to the fee description of adjacent property to the same degree in which it was originally obtained (i.e. property dedicated exclusively from a single parcel shall be returned to that parcel; property dedicated through subdivision shall be divided at the center line and returned equally to abutting parcels).

As previously stated, the subject alley right-of way was dedicated by the Subdivision of Block 69 and the owners of the adjacent properties to the north and to the south are the same owner. The land will be absorbed within the existing Lots 16 – 19.

Per LDR Section 2.4.6(M)(3)(e), the City's Environmental Services Department (ESD) has reviewed the request and has no concerns. For any existing utility easements to be abandoned, the utilities within those easements must be relocated subject to approval by the appropriate jurisdiction and County/State agencies. Any new easement dedications will require that the approved Resolution allow the acceptance of the replacement easements since the plat will not be approved concurrently. The utility companies will be required to sign-off on the composite utility plan which will indicate all replacement easements prior to the replat. The existing sewer main located within this portion of the alley will be removed. The existing sewer main along the west side of Lot 16 will be extended through the new alley extension to SE 1<sup>st</sup> Street and connect to Block 70 to the south.

## REQUIRED FINDINGS

Pursuant to **LDR Section 2.4.6(M)(5)**, prior to any right-of-way abandonment being approved, the following findings must be made:

A) That there is not, nor will there be a need for the use of the right-of-way for any public purpose.

The development proposal includes the dedication of a 20-foot wide replacement right-of-way that will extend the alley to SE 1<sup>st</sup> Street, which maintains the connectivity with the remaining existing

alley to the north. This alley "relocation" will provide improved traffic access since the existing 90-degree connection to SE 1<sup>st</sup> Avenue is problematic for larger vehicles to maneuver.

B) That the abandonment does not, nor will not, prevent access to a lot of record.

The alley will be relocated by extending the existing north/south alley to SE 1<sup>st</sup> Street. Therefore, access to the properties within Block 69 will not be prevented.

C) That the abandonment will not result in a detriment to the provision of access and/or of utility services to adjacent properties or the general area.

Due to the provision of the replacement alley to SE 1<sup>st</sup> Street, the abandonment of the east/west portion of the alley will not be detrimental to the adjacent properties or public services. The relocation of the alley will improve vehicular access to the north/south alley since it will remove the existing 90-degree turn to SE 1<sup>st</sup> Avenue.

Based on the above, a positive findings can be made to support the abandonment of the alley.

#### REVIEW BY OTHERS

At its meeting of September 22, 2016, the **Community Redevelopment Agency (CRA)** considered the complete development, which included the subject abandonment, and the consensus was to not support the development.

At its meeting of October 19, 2016, the **Historic Preservation Board (HPB)** considered the abandonment request and recommended approval on a 4 to 3 vote (Klein, Bathurst, and Patton dissenting).

Courtesy notices have been provided to the following groups and neighborhood associations:

- Chamber of Commerce
- Southwest Neighborhood

Formal public notice has been provided to property owners within a 500' radius of the subject property.

#### ALTERNATIVE ACTIONS

- A. Continue with direction.
- B. Move a recommendation of approval of the request for the abandonment of a portion of the alley right-of-way located within **Block 69**, associated with the **Swinton Commons** development, by adopting the findings of fact and law contained in the staff report, and finding that the request and approval thereof is consistent with the Comprehensive Plan and meets criteria set forth in Section 2.4.6(M)(5) of the Land Development Regulations.
- C. Move a recommendation of denial of the request for the abandonment of a portion of the alley right-of-way located within **Block 69**, associated with the **Swinton Commons** development, by adopting the findings of fact and law and finding that the request and approval thereof is not consistent with the Comprehensive Plan and that the required findings of LDR Section 2.4.6(M)(5) cannot be made.

<b>RECOMMENDED ACTION</b>
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Move a recommendation of approval to the City Commission of the request for the abandonment of the east-west portion of the alley right-of-way located within **Block 69**, associated with the **Swinton Commons** development, by adopting the findings of fact and law contained in the staff report, and finding that the request and approval thereof is consistent with the Comprehensive Plan and meets criteria set forth in Section 2.4.6(M)(5) of the Land Development Regulations, subject to the following conditions:

1. That the abandonment is not effective until:
  - a. The 20' right-of-way dedication to extend the north/south alley to SE 1<sup>st</sup> Street is recorded; and,
  - b. The financial guarantee (equivalent to the City's cost for alley improvement) be provided to the City upon recordation of the abandonment and dedication to ensure construction of the alley extension with the financial guarantee returned to the property owner or guarantor upon completion of the alley extension improvements by the applicant. This financial guarantee is in addition to all financial guarantees associated with the project such as the relocation of the sewer main within the relocated alley.
2. That, if the associated site plan is approved, the east/west alley shall revert to the City if the north/south alley extension improvements are not completed prior to the site plan expiration date, per LDR Sections 2.4.4(E) and 2.4.4(F), and, if the associated site plan is not approved, then the abandonment, if recorded, shall revert to the City, and if not yet recorded, then the abandonment approval shall be void.



947 Clint Moore Road  
Boca Raton, Florida 33487

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## SKETCH AND LEGAL DESCRIPTION (NOT A SURVEY)

### SWINTON COMMONS - ABANDONMENT OF ALLEY BLOCK 69

#### LEGAL DESCRIPTION

A PORTION OF THE 16.00 FOOT WIDE ALLEY AND A PORTION OF LOT 19, IN "SUBDIVISION OF BLOCK 69", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2 AT PAGE 43 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF LOT 18 OF SAID PLAT; THENCE NORTH  $89^{\circ}06'10''$  WEST, ALONG THE NORTH LINE OF SAID LOT 18, A DISTANCE OF 5.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH  $89^{\circ}06'10''$  WEST, ALONG THE NORTH LINE OF LOTS 18, 17 AND 16 OF SAID PLAT, A DISTANCE OF 124.12 FEET; THENCE NORTH  $00^{\circ}02'00''$  EAST, ALONG A LINE 2.00 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID LOT 19 AND ITS SOUTHERLY EXTENSION, A DISTANCE OF 18.00 FEET; THENCE SOUTH  $89^{\circ}06'10''$  EAST, ALONG A LINE 2.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID LOT 19, A DISTANCE OF 124.12 FEET; THENCE SOUTH  $00^{\circ}02'00''$  WEST, ALONG A LINE 5.00 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID PLAT, A DISTANCE OF 18.00 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE IN THE CITY OF DELRAY BEACH, PALM BEACH COUNTY, FLORIDA, AND CONTAIN 2234 SQUARE FEET, MORE OR LESS.

#### NOTES

1. REPRODUCTIONS OF THIS SKETCH ARE NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
2. NO SEARCH OF THE PUBLIC RECORDS WAS MADE IN THE PREPARATION OF THIS SKETCH AND DESCRIPTION.
3. BEARINGS SHOWN HEREON ARE BASED ON THE CENTERLINE OF SWINTON AVENUE HAVING AN ASSUMED BEARING OF SOUTH  $00^{\circ}02'00''$  WEST.

#### CERTIFICATION

I HEREBY CERTIFY THAT THE SKETCH AND DESCRIPTION SHOWN HEREON COMPLIES WITH MINIMUM TECHNICAL STANDARDS AS CONTAINED IN CHAPTER 5J-17.051, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES, AND THAT SAID SKETCH AND DESCRIPTION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS PREPARED UNDER MY DIRECTION.

JEFF S. HODAPP  
SURVEYOR AND MAPPER  
FLORIDA LICENSE NO. LS5111

#### ABBREVIATIONS

L	-	ARCLength
CONC.	-	CONCRETE
COR.	-	CORNER
D	-	DELTA (CENTRAL ANGLE)
D.E.	-	DRAINAGE EASEMENT
L.B.	-	LICENSED BUSINESS
L.S.	-	LICENSED SURVEYOR
MON.	-	MONUMENT
O.R.B.	-	OFFICIAL RECORDS BOOK
P.O.B.	-	POINT OF BEGINNING
P.O.C.	-	POINT OF COMMENCEMENT
P.B.	-	PLAT BOOK
P.B.C.R.	-	PALM BEACH COUNTY RECORDS
PG.	-	PAGE
P.S.M.	-	PROFESSIONAL SURVEYOR & MAPPER
R/W	-	RIGHT-OF-WAY
U.E.	-	UTILITY EASEMENT

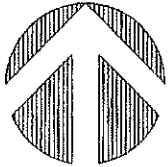
Project Name:	SWINTON COMMONS	DATE:	12/31/2015
JOB NO.	14104	DWG BY:	JSH
		CK'D BY:	JEK
			SHEET 1 OF 2



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